

SENATE BILL NO. 459

INTRODUCED BY TROPILA, GEBHARDT, JENT, LENHART, WHEAT

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE MOTOR CARRIER SAFETY ASSISTANCE PROGRAM FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF TRANSPORTATION; ASSIGNING RESPONSIBILITY FOR THE ADOPTION OF MOTOR CARRIER SAFETY STANDARDS AND PRIMARY RESPONSIBILITY FOR MOTOR CARRIER INSPECTION TO THE DEPARTMENT OF TRANSPORTATION; REQUIRING THE MONTANA HIGHWAY PATROL TO COORDINATE WITH THE DEPARTMENT OF TRANSPORTATION FOR MOTOR CARRIER SAFETY AND ENFORCEMENT OF CERTAIN LAWS; AND AMENDING SECTIONS 15-70-233, 15-70-357, 19-8-101, 44-1-1005, 44-4-301, 44-4-302, 61-9-512, 61-10-141, 61-12-205, 61-12-206, 61-12-208, AND 76-13-601, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-70-233, MCA, is amended to read:

"15-70-233. Improperly imported fuel -- seizure. (1) As used in this section, the following definitions apply:

(a) "conveyance" means a tank car, vehicle, or vessel that is used to transport fuel;

(b) "department" means the department of transportation; and

(c) "peace officer" means an employee of the department of transportation designated or appointed as a peace officer under [section 8] or 61-12-201.

(2) Pursuant to 61-12-206(5), a peace officer may:

(a) stop and search a conveyance in the state if the peace officer has reasonable cause to believe that the conveyance is being used to carry improperly imported fuel and is intentionally avoiding fuel tax responsibilities; and

(b) seize without a warrant imported fuel for which the distributor or transporter has not obtained a valid Montana gasoline or special fuel distributor license as required in 15-70-202 and 15-70-341.

(3) The peace officer shall obtain authorization from the director of the department of transportation or the director's designee before seizing fuel.

(4) Upon seizing the fuel that the peace officer believes to be improperly imported, the peace officer

1 may:

2 (a) direct the rerouting or transfer of the fuel to a location designated by the department. The department
3 shall reimburse the carrier for transportation costs from the point of seizure to the location designated by the
4 department.

5 (b) unload the fuel; and

6 (c) take three samples of the fuel from the cargo tank for examination.

7 (5) Within 48 hours after seizure of the improperly imported fuel, the department shall issue a notice
8 of right to file claim for the return of interest or title to the fuel. The notice must be issued to:

9 (a) the original owner of the fuel;

10 (b) the owner of the transportation company that conveyed the fuel; and

11 (c) any other interested party.

12 (6) The parties listed in subsections (5)(a) through (5)(c) may file a claim for the return of interest or title
13 to the fuel within 30 days after the date of seizure. If a claim is filed for interest or title to the seized fuel, the
14 department shall:

15 (a) provide the opportunity for a hearing;

16 (b) if requested, conduct the hearing within 5 days after receiving the claim;

17 (c) make a final determination of the party to take interest or title to the fuel within 2 working days after
18 the hearing; and

19 (d) mail notice of the department's determination to interested parties.

20 (7) (a) The department may determine that the seized fuel be forfeited by the original owner and may:

21 (i) sell the fuel to the licensed Montana distributor predetermined through a bidding process established
22 in department administrative rule; or

23 (ii) use the forfeited fuel for a public purpose determined by the department.

24 (b) The department shall issue a certificate of sale to the licensed distributor who purchases the seized
25 fuel.

26 (c) The net proceeds from the sale of the fuel must be deposited in the general fund, less:

27 (i) the applicable taxes, fees, and penalties, which the department shall deposit in a highway revenue
28 account in the state special revenue fund, as required in 15-70-101; and

29 (ii) the administrative costs incurred in conjunction with the seizure and disposal of the improperly
30 imported fuel.

(8) If the department determines that the original owner of the fuel may reclaim interest or title to the fuel, the department may:

(a) return to the owner money, less tax and penalty, equal to the wholesale value of the fuel on the day of the seizure; or

(b) return the fuel.

(9) A person forfeits the interest, right, and title to improperly imported fuel if the person:

(a) fails to file a claim for the seized fuel within the time allowed in subsection (5); or

(b) is determined to be guilty of violating fuel tax laws.

(10) A person whose fuel is seized under this section is not relieved of any penalties imposed for illegal fuel importation in Title 15, chapter 70."

Section 2. Section 15-70-357, MCA, is amended to read:

"15-70-357. Improperly imported fuel -- seizure. (1) As used in this section, the following definitions apply:

(a) "conveyance" means a tank car, vehicle, or vessel that is used to transport fuel;

(b) "department" means the department of transportation; and

(c) "peace officer" means an employee of the department of transportation designated or appointed as a peace officer under [section 8] or 61-12-201.

(2) Pursuant to 61-12-206(5), a peace officer may:

(a) stop and search a conveyance in the state if the peace officer has reasonable cause to believe that the conveyance is being used to carry improperly imported fuel and is intentionally avoiding fuel tax responsibilities; and

(b) seize without a warrant imported fuel for which the distributor or transporter has not obtained a valid Montana gasoline or special fuel distributor license as required in 15-70-202 and 15-70-341.

(3) The peace officer shall obtain authorization from the director of the department of transportation or the director's designee before seizing fuel.

(4) Upon seizing the fuel that the peace officer believes to be improperly imported, the peace officer may:

(a) direct the rerouting or transfer of the fuel to a location designated by the department. The department shall reimburse the carrier for transportation costs from the point of seizure to the location designated by the

1 department.

2 (b) unload the fuel; and

3 (c) take three samples of the fuel from the cargo tank for examination.

4 (5) Within 48 hours after seizure of the improperly imported fuel, the department shall issue a notice
5 of right to file claim for the return of interest or title to the fuel. The notice must be issued to:

6 (a) the original owner of the fuel;

7 (b) the owner of the transportation company that conveyed the fuel; and

8 (c) any other interested party.

9 (6) The parties listed in subsections (5)(a) through (5)(c) may file a claim for the return of interest or title
10 to the fuel within 30 days after the date of seizure. If a claim is filed for interest or title to the seized fuel, the
11 department shall:

12 (a) provide the opportunity for a hearing;

13 (b) if requested, conduct the hearing within 5 days after receiving the claim;

14 (c) make a final determination of the party to take interest or title to the fuel within 2 working days after
15 the hearing; and

16 (d) mail notice of the department's determination to interested parties.

17 (7) (a) The department may determine that the seized fuel be forfeited by the original owner and may:

18 (i) sell the fuel to the licensed Montana distributor predetermined through a bidding process established
19 in department administrative rule; or

20 (ii) use the forfeited fuel for a public purpose determined by the department.

21 (b) The department shall issue a certificate of sale to the licensed distributor who purchases the seized
22 fuel.

23 (c) The net proceeds from the sale of the fuel must be deposited in the general fund, less:

24 (i) the applicable taxes, fees, and penalties, which the department shall deposit in a highway revenue
25 account in the state special revenue fund, as required in 15-70-101; and

26 (ii) the administrative costs incurred in conjunction with the seizure and disposal of the improperly
27 imported fuel.

28 (8) If the department determines that the original owner of the fuel may reclaim interest or title to the
29 fuel, the department may:

30 (a) return to the owner money, less tax and penalty, equal to the wholesale value of the fuel on the day

1 of the seizure; or

2 (b) return the fuel.

3 (9) A person forfeits the interest, right, and title to improperly imported fuel if the person:

4 (a) fails to file a claim for the seized fuel within the time allowed in subsection (5); or

5 (b) is determined to be guilty of violating fuel tax laws.

6 (10) A person whose fuel is seized under this section is not relieved of any penalties imposed for illegal
7 fuel importation in Title 15, chapter 70."

8
9 **Section 3.** Section 19-8-101, MCA, is amended to read:

10 **"19-8-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this
11 chapter:

12 (1) (a) "Compensation" means remuneration paid from funds controlled by an employer in payment for
13 the member's services or for time during which the member is excused from work because the member has
14 taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed
15 by state or federal law are made.

16 (b) Compensation does not include maintenance, allowances, and expenses.

17 (2) "Highest average compensation" means a member's highest average monthly compensation during
18 any 36 consecutive months of membership service or, in the event a member has not served at least 36 months,
19 the total compensation earned divided by the number of months of service. Lump-sum payments for severance
20 pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon
21 termination of employment may be used in the calculation of a retirement benefit only to the extent that they are
22 used to replace, on a month-for-month basis, the normal compensation for a month or months included in the
23 calculation of the highest average compensation. A lump-sum payment may not be added to a single month's
24 compensation.

25 (3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife, and
26 parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the
27 department of fish, wildlife, and parks money.

28 (4) "Motor carrier officer" means an employee of the department of transportation designated or
29 appointed as a peace officer pursuant to [section 8] or 61-12-201.

30 (5) "Peace officer" or "state peace officer" means a person who by virtue of the person's employment

1 with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting
2 within the scope of the person's authority or who is charged with specific law enforcement responsibilities on
3 behalf of the state."

4
5 **Section 4.** Section 44-1-1005, MCA, is amended to read:

6 **"44-1-1005. Motor carriers safety -- enforcement -- violations.** ~~(1) The department of justice shall~~
7 ~~adopt, by rule, standards for safety of operations of:~~

8 ~~—— (a) any for-hire motor carrier or any private motor carrier;~~

9 ~~—— (b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle~~
10 ~~weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever~~
11 ~~is greater, of 10,001 pounds or more;~~

12 ~~—— (c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle~~
13 ~~weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever~~
14 ~~is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;~~

15 ~~—— (d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver,~~
16 ~~and is not used to transport passengers for compensation;~~

17 ~~—— (e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver,~~
18 ~~for compensation; or~~

19 ~~—— (f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the~~
20 ~~vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part~~
21 ~~172.~~

22 ~~—— (2) Standards of safety adopted under this section must substantially comply, within allowed tolerance~~
23 ~~guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as~~
24 ~~applied to motor carriers and vehicles transporting passengers or property in commerce.~~

25 ~~—— (3)(1) The highway patrol has the responsibility for enforcement of standards adopted pursuant to this~~
26 ~~section to enforce the provisions of Title 61, chapters 5, 8, and 9, as they apply to motor carriers and shall assist~~
27 ~~the department of transportation in the enforcement of safety standards adopted pursuant to [section 8].~~

28 ~~Inspection of a vehicle based in Montana may, at the request of the carrier, be made at the place of business~~
29 ~~or domicile of the vehicle owner or, if that is not a practicable inspection site, at a designated location and at a~~
30 ~~mutually agreeable time. After inspection, a vehicle found to conform to the standards adopted pursuant to this~~

~~section is entitled to certification and identification to exempt it from further safety inspection until the next required periodic inspection or until a nonconformity with standards is apparent. This section does not prohibit the inspection of a motor vehicle, as provided for by this section, at a safe location on a public road.~~

~~———— (4) The department~~

(2) The highway patrol shall cooperate with the department of transportation to ensure minimum duplication and maximum coordination of enforcement effort of the provisions of Title 61 as they apply to motor carriers.

~~(5) The department may designate and train civilian employees as inspectors within the motor carrier safety assistance program. Each civilian inspector is a peace officer whose jurisdiction is limited to enforcement of violations of Title 61, chapters 5 and 9, and any standards adopted pursuant to this section. Each employee designated as a peace officer may:~~

~~———— (a) issue citations and make arrests;~~

~~———— (b) issue summonses;~~

~~———— (c) accept bail;~~

~~———— (d) serve warrants of arrest;~~

~~———— (e) make reasonable inspections of cargo carried by commercial motor vehicles;~~

~~———— (f) make reasonable safety inspections of commercial motor vehicles; and~~

~~———— (g) require production of documents relating to the cargo, driver, routing, maintenance, or ownership of commercial motor vehicles.~~

~~———— (6) Violations of the standards adopted pursuant to this section are punishable as provided in 61-9-512, and the court, upon conviction or forfeiture of bail that is not vacated, shall forward a record of conviction or forfeiture to the department within 5 days in accordance with 61-11-101.~~

~~———— (7) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5."~~

Section 5. Section 44-4-301, MCA, is amended to read:

"44-4-301. Functions. (1) As designated by the governor as the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the board of crime control shall perform the functions assigned to it under that act. The board shall also provide to criminal justice agencies technical assistance and supportive services that are approved by the board or assigned by the governor or legislature.

1 (2) The board may:

2 (a) establish minimum qualifying standards for employment of peace officers, as defined in 7-32-303,
3 detention officers, detention center administrators, juvenile detention center administrators, juvenile detention
4 or juvenile corrections officers, public safety communications officers, probation and parole officers, corrections
5 officers, and ~~commercial vehicle inspectors~~ employees of the department of transportation designated or
6 appointed as peace officers under [section 8] or 61-12-201; and

7 (b) develop procedures for revoking or suspending the certification of peace officers, as defined in
8 7-32-303, detention officers, detention center administrators, juvenile detention center administrators, juvenile
9 detention or juvenile corrections officers, public safety communications officers, probation and parole officers,
10 corrections officers, and ~~commercial vehicle inspectors~~ employees of the department of transportation
11 designated or appointed as peace officers under [section 8] or 61-12-201.

12 (3) The board may require basic training for officers, establish minimum standards for equipment and
13 procedures and for advanced inservice training for officers, establish minimum standards for the certification of
14 public safety communications officers, establish minimum standards for the certification of ~~motor carrier services~~
15 ~~division officers~~ employees of the department of transportation designated or appointed as peace officers under
16 [section 8] or 61-12-201, and establish minimum standards for law enforcement, detention officer, and juvenile
17 detention or juvenile corrections officer training schools administered by the state or any of its political
18 subdivisions or agencies, to ensure the public health, welfare, and safety.

19 (4) The board may waive the minimum qualification standard provided in subsection (2) for good cause
20 shown.

21 (5) The board shall establish minimum standards for training of probation and parole officers, pursuant
22 to 46-23-1003.

23 (6) The board shall establish minimum standards for training corrections officers and ~~commercial vehicle~~
24 ~~inspectors~~ employees of the department of transportation designated or appointed as peace officers under
25 [section 8] or 61-12-201.

26 (7) It is the duty of the appointing authority to cause each probation and parole officer, corrections
27 officer, juvenile detention or juvenile corrections officer, and ~~commercial vehicle inspector appointed under its~~
28 ~~authority~~ employee of the department of transportation designated or appointed as a peace officer under [section
29 8] or 61-12-201 ~~whose term of employment commenced after September 30, 1999,~~ to attend and successfully
30 complete within 1 year of employment, an appropriate basic course certified by the board. The appointing

1 authority may terminate a probation and parole officer's, corrections officer's, or juvenile detention or juvenile
2 corrections officer's, or commercial vehicle inspector's employment or the employment of an employee of the
3 department of transportation designated or appointed as a peace officer under [section 8] or 61-12-201 for failure
4 to:

- 5 (a) meet the minimum standards established by the board; or
- 6 (b) satisfactorily complete the appropriate basic course."

7
8 **Section 6.** Section 44-4-302, MCA, is amended to read:

9 **"44-4-302. Definitions.** As used in this part, the following definitions apply:

10 ~~—— (1) "Commercial vehicle inspector" means a person authorized by the department of justice to conduct~~
11 ~~a motor carrier safety inspection pursuant to 44-1-1005.~~

12 ~~—— (2)(1) "Corrections officer" means a person who has full-time or part-time authority and responsibility~~
13 ~~for maintaining custody of inmates and who performs tasks related to the operation of a prison or juvenile~~
14 ~~correctional facility.~~

15 ~~(3)(2) "Detention center" means a facility established and maintained by an appropriate entity for the~~
16 ~~purpose of confining arrested persons or persons sentenced to a detention center.~~

17 ~~(4)(3) "Detention center administrator" means the sheriff, chief of police, administrator, superintendent,~~
18 ~~director, or other individual serving as the chief executive officer of a detention center or temporary detention~~
19 ~~center.~~

20 ~~(5)(4) "Detention officer" means a person or a peace officer who has full-time or part-time authority and~~
21 ~~responsibility for maintaining custody of inmates and who performs tasks related to the operation of a detention~~
22 ~~center or temporary detention center.~~

23 ~~(6)(5) "Juvenile detention center" means a detention facility as defined in 41-5-103.~~

24 ~~(7)(6) "Juvenile detention or juvenile corrections officer" means a person who has full-time or part-time~~
25 ~~authority and responsibility for maintaining custody of juveniles under the jurisdiction of the youth court or the~~
26 ~~department of corrections and who performs tasks related to the operation of a juvenile detention center or a~~
27 ~~juvenile correctional facility.~~

28 ~~(8)(7) "Public safety communications officer" means a person who receives requests for emergency~~
29 ~~services, as defined in 10-4-101, dispatches the appropriate emergency service units, and is certified under~~
30 ~~7-31-203.~~

(9)(8) "Temporary detention center" means a facility for the temporary detention of an arrested person for up to 72 hours, excluding holidays, Saturdays, and Sundays. The period of time that a person is held in temporary detention may not exceed 96 hours."

Section 7. Section 61-9-512, MCA, is amended to read:

"61-9-512. Violation of rules -- penalty. (1) Any violation of any rules adopted by the department is a misdemeanor.

(2) A person convicted of a violation of any standard adopted pursuant to ~~44-1-1005~~ [section 8] shall be fined not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense.

(3) The penalties provided in subsection (2) apply to any motor carrier that is a corporation subject to the standards adopted pursuant to ~~44-1-1005~~ [section 8]. The penalties may be imposed against:

(a) a director or officer of the corporation;

(b) any receiver, trustee, lessee, agent, or person acting for or employed by the corporation; or

(c) any broker of property or officer, agent, or employee ~~thereof~~ of the broker."

NEW SECTION. Section 8. Department of transportation to adopt motor carrier safety standards -- enforcement of safety standards -- department to designate peace officers -- violation of standards -- duty to obtain bills of lading for agricultural seeds -- authority to inspect diesel-powered vehicles. (1) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5.

(2) The department of transportation shall adopt, by rule, standards for safety of operations of:

(a) any for-hire motor carrier or any private motor carrier;

(b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;

(c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

(d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver,

1 and that is not used to transport passengers for compensation;

2 (e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver,
3 for compensation; or

4 (f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the
5 vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part
6 172.

7 (3) Standards of safety adopted under this section must substantially comply, within allowed tolerance
8 guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as
9 applied to motor carriers and vehicles transporting passengers or property in commerce.

10 (4) The department of transportation shall work with the highway patrol in the enforcement of safety
11 standards adopted pursuant to this section. The highway patrol and the department of transportation shall
12 cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

13 (5) In order to enforce compliance with safety standards adopted pursuant to this section, the
14 department of transportation shall designate employees as peace officers. The designated employees must be
15 employed in the administration of the motor carrier services functions of the department of transportation. Each
16 employee designated as a peace officer may:

17 (a) issue citations and make arrests in connection with violations of safety standards adopted under this
18 section;

19 (b) issue summons;

20 (c) accept bail;

21 (d) serve warrants for arrest;

22 (e) make reasonable inspections of cargo carried by commercial motor vehicles;

23 (f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted
24 under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers;
25 and

26 (g) require production of documents relating to the cargo, driver, routing, or ownership of the commercial
27 motor vehicles.

28 (6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of
29 the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section has:

30 (a) the same authority to enforce provisions of the motor carriers law as that granted to the public

1 service commission under 69-12-203;

2 (b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for
3 shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana
4 and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was
5 obtained; and

6 (c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of
7 any diesel-powered motor vehicle operating on the public highways of this state in order to determine
8 compliance with Title 15, chapter 70, part 3.

9 (7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512,
10 and the court, upon conviction or forfeiture of bail that is not vacated, shall forward a record of conviction or
11 forfeiture to the department within 5 days in accordance with 61-11-101.

12 (8) The department of transportation shall report to the revenue and transportation interim committee
13 at least once each year on its enforcement of the provisions of Title 15, chapter 70, part 3, pursuant to the
14 authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special
15 revenue fund.

16
17 **Section 9.** Section 61-10-141, MCA, is amended to read:

18 **"61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads --**
19 **enforcement of motor carrier safety standards -- duty to obtain bills of lading for agricultural seeds --**
20 **authority to inspect diesel-powered vehicles.** (1) (a) A peace officer, officer of the highway patrol, or
21 employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-104
22 and 61-10-106 through 61-10-110, except recreational vehicles as defined in 61-1-132, by means of either
23 portable or stationary scales and may require that the vehicle be driven to the nearest scales if those scales are
24 within 2 miles.

25 (b) ~~That person~~ If it is determined in the weighing process that the maximum allowable weights specified
26 in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 have been exceeded, the peace officer,
27 officer of the highway patrol, or employee of the department of transportation may then require the driver to
28 unload at a designated facility that portion of the load necessary to decrease the weight of the vehicle to conform
29 to the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110.
30 If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance

1 with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility
2 where the load can be safely reduced to legal limits.

3 (2) Commodities and material unloaded as required by this section must be cared for by the owner or
4 operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as required by
5 this section may not be left on the highway right-of-way.

6 (3) The department of transportation may establish, maintain, and operate weigh stations, either
7 intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks
8 under 14,000 pounds GVW and recreational vehicles as defined in 61-1-132 (that are not new or used
9 recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to enter for the
10 purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety
11 requirements. The department may require vehicles over 10,000 pounds to be inspected and weighed by
12 portable scale crews.

13 ~~(4) The department of transportation shall work with the highway patrol in the enforcement of safety~~
14 ~~standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is~~
15 ~~designated as the lead agency. The highway patrol and the department of transportation shall cooperate to~~
16 ~~ensure minimum duplication and maximum coordination of enforcement effort.~~

17 ~~———— (5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department~~
18 ~~of transportation shall designate employees as peace officers. The designated employees must be employed~~
19 ~~in the administration of the motor carrier services functions of the department of transportation. Each employee~~
20 ~~designated as a peace officer may:~~

21 ~~———— (a) issue citations and make arrests in connection with violations of safety standards adopted under~~
22 ~~44-1-1005;~~

23 ~~———— (b) issue summons;~~

24 ~~———— (c) accept bail;~~

25 ~~———— (d) serve warrants for arrest;~~

26 ~~———— (e) make reasonable inspections of cargo carried by commercial motor vehicles;~~

27 ~~———— (f) make reasonable safety inspections of commercial motor vehicles used by motor carriers; and~~

28 ~~———— (g) require production of documents relating to the cargo, driver, routing, or ownership of the commercial~~
29 ~~motor vehicles.~~

30 ~~———— (6) In addition to other enforcement duties assigned under this section, an employee of the department~~

of transportation who is appointed pursuant to 61-12-201 has:

——— (a) the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203;

——— (b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained; and

——— (c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 3.

——— (7) The department of transportation shall report to the revenue and transportation interim committee at least once each year on its enforcement, pursuant to the authority provided in subsection (6)(c), of the provisions of Title 15, chapter 70, part 3, and on any impacts that enforcement has had on the state special revenue fund."

Section 10. Section 61-12-205, MCA, is amended to read:

"61-12-205. Power to inspect vehicle registration, receipts, and other documents. Employees of the department designated or appointed as peace officers under [section 8] or 61-12-201 may when officially dressed make reasonable inspection inspections of vehicle registration receipts, department receipts and registrations, special permits, and other documents required to be carried in or for a vehicle traveling on the public highways of Montana."

Section 11. Section 61-12-206, MCA, is amended to read:

"61-12-206. Offenses for which arrest authorized. Employees designated or appointed as peace officers under [section 8] or 61-12-201 may make arrests for violations of the following statutory provisions:

(1) chapters 3 and 5 of this title, but only if the vehicle involved is subject to 61-10-141;

(2) chapter 10 of this title;

(3) part 3, chapter 4, of this title;

(4) 15-24-201 through 15-24-205;

(5) Title 15, chapter 70, parts 2 and 3;

1 (6) ~~44-1-1005~~ [section 8] and safety rules adopted under that section;

2 (7) Title 69, chapter 12."

3
4 **Section 12.** Section 61-12-208, MCA, is amended to read:

5 **"61-12-208. Duty upon making arrest -- power to fix and accept bail.** Employees designated or
6 appointed as peace officers under [section 8] or 61-12-201, upon making an arrest, shall deliver to the offender
7 a form of notice to appear, describing the nature of the offense, with instructions on the notice for the offender
8 to report to the nearest justice of the peace. The employee may accept a deposit for appearance justifiable for
9 the offense charged. The person who is arrested may be detained for a reasonable time for the purpose of
10 issuing the notice or of awaiting the arrival of another peace officer who has been called to the scene, or the
11 person may be transported, as provided in 46-7-101. If the employee accepts bail, the employee shall give a
12 signed receipt to the offender, setting forth the amount received. The employee shall then deliver the bail money
13 to the justice of the peace before whom the offender is to appear, and the justice of the peace shall give a receipt
14 to the employee for the amount of bail money delivered. After the filing of the complaint and appearance of the
15 defendant, the justice of the peace shall assume jurisdiction and may set and accept further appearance bail
16 bond."

17
18 **Section 13.** Section 76-13-601, MCA, is amended to read:

19 **"76-13-601. Unlawful transportation of trees and boughs.** (1) A person may not transport on the
20 ways of this state more than five coniferous trees without having possession of a bill of sale showing ownership
21 of the trees. The bill of sale shall specify:

- 22 (a) the date of its execution;
23 (b) the name and address of the vendor or donor of the trees;
24 (c) the name and address of the vendee or donee of the trees;
25 (d) the number of trees, by species, sold or transferred by the bill of sale; and
26 (e) the shipping yards or the property from which the trees were taken.

27 (2) Subsection (1) does not apply to:

- 28 (a) the transportation of trees with their roots intact;
29 (b) the transportation of logs, poles, pilings, or other forest products from which substantially all the
30 limbs and branches have been removed;

1 (c) the transportation of coniferous trees by the owner of the land from which they were taken or the
2 owner's agent, provided that agent has possession of a tax receipt or other evidence indicating the section,
3 township, and range from which the trees were harvested; or

4 (d) the transportation of coniferous trees by a common carrier.

5 (3) A person may not transport on the ways of this state more than 200 pounds of boughs from
6 coniferous trees without written authorization of the owner of the boughs.

7 (4) The bill of sale required in subsection (1) or the written authorization required in subsection (3) must
8 be exhibited on request of a law enforcement officer, highway patrol officer, state fish and game warden, an
9 employee of the department of transportation ~~as~~ designated or appointed as a peace officer under [section 8]
10 or 61-12-201, or an agent of the department of natural resources and conservation.

11 (5) A person who violates this section shall be punished by a fine not to exceed \$500, imprisonment
12 not to exceed 6 months, or both.

13 (6) For the purposes of this section, "ways of this state" means any highway, road, alley, lane, parking
14 area, or other public or private place adapted and fitted for public vehicle travel that is commonly used by the
15 public with the express or implied consent of the owner."

16
17 NEW SECTION. **Section 14. Codification instruction.** [Section 8] is intended to be codified as an
18 integral part of Title 61, chapter 10, part 1, and the provisions of Title 61, chapter 10, part 1, apply to [section 8].

19
20 NEW SECTION. **Section 15. Contingent voidness.** If [section 8] of House Bill No. 35, exempting the
21 Montana highway patrol from vacancy savings, is not passed and approved, [this act] is void.

22 - END -